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DISPATCHED BY

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Amendment of Parts 80 and 87 of the)	
Commission's Rules to Permit Operation)	WT Docket No. 96-82
of Certain Domestic Ship and Aircraft)	
Radio Stations Without Individual Licenses)	

REPORT AND ORDER

Adopted: October 18, 1996;

Released: October 25, 1996

By the Commission:

I. INTRODUCTION AND EXECUTIVE SUMMARY

1. By this action, we revise the Maritime Service and Aviation Service rules to eliminate the individual radio licensing requirements for ship stations and aircraft stations that operate domestically and are not required by statute or treaty to carry a radio (hereafter referred to as "exempt vessels and aircraft").¹ This action is taken pursuant to Section 307(e) of the Communications Act of 1934² (the "Communications Act"), as amended by Section 403(i) of the Telecommunications Act of 1996,³ which gives the Commission discretion to remove the individual radio licensing requirements for these stations upon a determination that the public interest, convenience and necessity would be served thereby.

2. This *Report and Order* adopts rules substantially as proposed in the *Notice of Proposed Rule Making (Notice)* in this proceeding.⁴ We are eliminating the unnecessary regulatory burdens associated with the filing of applications by hundreds of thousands of ship and aircraft station licensees as well as removing the administrative burden associated with the Commission's processing of such applications. We conclude that the public interest, convenience and necessity is served by eliminating individual licensing of exempt vessels and

¹ We referred to these vessels and aircraft as "recreational" in the *Notice*. We have changed this to "exempt" in order to eliminate any confusion since we decided herein to include air carriers (commercial aircraft). See para. 10.

² 47 U.S.C. § 307(e).

³ Pub. L. No. 104-104, 110 Stat. 56 (1996) ("1996 Telecommunications Act").

⁴ See *Notice of Proposed Rule Making*, WT Docket No. 96-82, 11 FCC Rcd 6353 (1996).

aircraft because individual licenses are unnecessary for either the safety or operational communications requirements or identification purposes. Moreover, such individual licensing does not aid us in carrying out our regulatory and spectrum management responsibilities with regard to these services. Finally, we set forth herein our policies and procedures for (1) refunding regulatory fees for both maritime and aviation licensees who received their licenses after July 17, 1994,⁵ (2) refunding licensing and regulatory fees for applicants who have applied for but not yet received an authorization (pending applications) and (3) distributing maritime mobile service identities⁶ (MMSIs) to exempt vessels.

II. BACKGROUND

3. Parts 80 and 87 of the Commission's Rules, 47 C.F.R. Parts 80 and 87, require all ship and aircraft radio stations to be individually licensed. These requirements cover ships and aircraft traveling domestically and internationally, as well as ships that are required by statute or treaty to carry radio equipment.⁷ The 1996 Telecommunications Act gave the Commission discretion to permit licensing, by rule, of ship and aircraft radio stations operated domestically when the operators are not otherwise required to carry a radio station provided the public interest, convenience and necessity would be served thereby.⁸

4. In the *Notice*, we proposed to remove the individual radio licensing requirement for exempt vessels and aircraft.⁹ For ships, we proposed to permit individuals to operate a marine VHF radio, any type of emergency position indicating radio beacon (EPIRB), and/or radar without an individual license. Similarly, for aircraft, we proposed to permit pilots to operate a VHF aircraft radio and/or any type of emergency locator transmitter (ELT) without an individual license. According to the Commission's licensing records, there are approximately 581,000 ship station licensees and 131,000 aircraft station licensees that operate domestically

⁵ The July 17, 1994 date is when the Commission started charging a regulatory fee.

⁶ Maritime mobile service identities (MMSIs) are nine-digit identifiers (similar to telephone numbers) transmitted along with a radio communication to uniquely identify ship stations, ship earth stations, coast stations, coast earth stations, and group calls. A complete explanation of the formation and assignment of MMSIs by Administrations is contained in Appendix 43 of the ITU Radio Regulations. In this proceeding, however, we are primarily concerned with the assignment of MMSIs to ship stations for use with VHF band digital selective calling radio equipment.

⁷ For example, cargo ships over 300 gross tons navigating in the open sea and ships of more than 100 gross tons certified by the U.S. Coast Guard to carry at least one passenger on navigable waterways are required by law to carry a radio.

⁸ 1996 Telecommunications Act, Section 403(e)(1).

⁹ See *Notice of Proposed Rule Making*, WT Docket No. 96-82, 11 FCC Rcd 6353 (1996). The Commission previously removed the individual licensing requirement for CB and R/C stations, resulting in the removal of individual licensing requirement for approximately 6 million CB and R/C licensees. See *Amendment of Parts 1 and 95 of the Commission's Rules to Eliminate Individual Station Licenses in the Radio Control (R/C) Radio Service and the Citizens Band (CB) Radio Service*, PR Docket No. 82-799, *Report and Order*, 48 Fed. Reg. 24884 (June 3, 1983).

and are not required by statute or treaty to carry a radio. Thirty-three comments were received in response to the *Notice*. A list of commenters is provided in Appendix A.

III. DISCUSSION

5. The vast majority of the commenters overwhelmingly support our proposal to eliminate the individual licensing requirement for exempt vessels and aircraft. For example, the National Air Transportation Association (NATA), which represents nearly 2,000 aviation businesses owning, operating and servicing aircraft, commends our proposal for recognizing the value of eliminating the administrative and economic burden of licensing.¹⁰ The National Business Aircraft Association (NBAA), which represents nearly 4,000 companies that operate more than 5,000 aircraft, also voices support for our proposal.¹¹

6. The maritime community also supports our proposal. The United States Coast Guard ("Coast Guard"), for example, notes that licensing and the associated regulatory fees have tended to act as a disincentive to carriage of ship safety-related communications and electronic equipment.¹² In order to avoid what it terms a negative impact¹³ from our proposal, however, the Coast Guard suggests that the Commission should increase education efforts and require that a copy of the rules be included with ship VHF radios when they are purchased. The Boat Owners Association of the United States (Boat US), an organization of more than 50,000 recreational boat owners, strongly supports our proposal and notes that a large number of its members have called or written to them indicating they would do without a VHF radio rather than pay the required fee.¹⁴ National Boating Federation (NBF), a volunteer organization composed of groups of recreational boaters, and two individual commenters oppose the elimination of the licensing requirement for ships. They simply state that, without the licensing requirements for recreational boaters, safety will be compromised.¹⁵ These commenters, however, also argue that the current licensing and regulatory fees are excessive.¹⁶

7. We find that it is in the public interest, convenience and necessity to remove the

¹⁰ NATA Comments at 1.

¹¹ NBAA Comments at 1.

¹² Coast Guard Comments at 1.

¹³ The Coast Guard notes that an inexpensive VHF marine radio can be purchased from a dealer or by mail order with the buyer not being aware of the rules that apply to its use.

¹⁴ Boat US Comments at 1.

¹⁵ Jeffrey Kotler Comments at 1; Chris Boscole Comments at 1; National Boating Federation Comments at 1.

¹⁶ Jeffrey Kotler Comments at 1; Chris Boscole Comments at 1; National Boating Federation Comments at 1.

individual licensing requirement for exempt vessels and aircraft. Individual licensing is not needed for identification purposes. In the case of exempt vessels, the name of the vessel is usually used for domestic identification, thus, FCC-issued call signs are not used for this purpose. In the case of aircraft, the Federal Aviation Administration (FAA) assigns each aircraft an identification number, which then becomes the FCC call sign. As a result, the Commission's individual licensing does not provide any distinct identification function.

8. Individual licensing also is unnecessary for any of our regulatory purposes. We perform our regulatory responsibilities for the Maritime and Aviation Services primarily through the rulemaking process to allocate spectrum, to implement requirements for license eligibility, and to define types of communications that may be transmitted. In addition, all channels are shared by all licensees so spectrum management occurs through channel sharing, in real time, or through control exercised generally by the FAA or Coast Guard.

9. We further conclude that licensing of exempt vessels and aircraft by rule will not have an adverse effect on safety at sea or safety of air navigation. We note as a general matter that operators of these vessels and aircraft have never been required to pass a test or in any way demonstrate knowledge of radio procedures prior to licensing. Rather, we have relied on cooperative efforts by informed radio users to distribute distress communications and safety information among operators of exempt vessels and aircraft. We anticipate that these vessel and aircraft operators will continue to learn about the proper use of marine and aircraft radios through instructional courses and through public forums conducted by various organizations such as the U.S. Coast Guard Auxiliary, the FAA, and the Commission. We do not agree with the Coast Guard that we should require that a copy of the maritime rules be included with ship VHF radios when they are purchased. Not only would such a requirement impose an unnecessary paperwork burden on equipment manufacturers or dealers, but much of the volume of the maritime rules is not applicable to exempt vessels and would not be useful to licensees of these vessels. In coordination with the Coast Guard and FAA, however, the Commission will continue to publish a Fact Sheet concerning ship and aircraft radio station licensing and make it available on the Commission's World Wide Web Home Page as well as in paper form to the maritime and aviation communities, including manufacturers and retailers of marine and aircraft VHF radios. Further, we will continue to work closely with the Coast Guard, FAA, and other organizations such as Boat US, NBF and NBAA to promote safety.

10. Several commenters request modification and/or clarification of the scope of the proposed rules. NBAA, for example, suggests that the rules be modified to make it clear that all domestically flown aircraft not subject to statute or treaty to carry a radio are exempt from the licensing requirement, not just recreational or private aircraft.¹⁷ Similarly, Roland Desjardins requests clarification of whether commercial aircraft are required to be individually licensed.¹⁸ We did not propose to include commercial aircraft because (1) the vast majority of such aircraft carry more radio equipment than a VHF radio and ELT and, thus, would have to be licensed.

¹⁷ National Business Aircraft Association Comments at 1.

¹⁸ Roland Desjardins Comments at 1.

(2) they often fly internationally, and (3) they represent less than 10 percent of the aircraft population. As stated above, however, commenters request that the scope be expanded and did not raise any related safety concerns. Further, we note that no statute or treaty requires aircraft flown domestically to carry a radio and we believe that it is within the scope of our authority (and will not affect safety) to include general aviation and commercial aircraft as exempt from the licensing requirement. Therefore, we are deleting the term "private" from new Section 87.18. All aircraft stations operated on domestic flights when such aircraft are not required by statute or treaty to carry a radio are authorized by rule.

11. Jeffrey Austen points out that under FAA rules,¹⁹ aircraft must have radio communications capability in order to fly into certain airspace. He states that it is unclear whether aircraft that fly into such airspace must be individually licensed and requests clarification.²⁰ While it may be necessary under FAA rules (rather than statutes or treaties) to have radio communications capability while flying in certain airspace, we see no safety, operational or regulatory reason why an individual license is needed. Further, to require individual licensing for aircraft that fly into this airspace would, in effect, negate the intended benefits of licensing by rule to a large segment of the aviation community as well as the Commission. Even owners who rarely fly into such airspace would have to get a license. Therefore, exempt aircraft that are required by the FAA to have radio capability need not obtain an individual license from the Commission.

12. Robert Sassaman notes that our proposals do not cover ship MF/HF radios and that such radios are often installed on recreational vessels that make one day trips to the Bahamas. Mr. Sassaman asks for clarification.²¹ We note that in the *Notice* we proposed to eliminate the individual licensing requirement only for VHF radios, any type of EPIRB, and/or radar aboard exempt vessels because the 1996 Telecommunications Act gives the Commission authority to eliminate the licensing requirement only for ships that operate domestically.²² MF/HF radios aboard ships are generally used for long distance (high seas) communications. Because of the potential to be used for international communications we do not believe we have the authority to license MF/HF radios by rule. Thus, we hereby clarify that MF/HF radios are not within the scope of the rules we adopt today regarding exempt vessels and aircraft.

13. In addition, Mr. Sassaman and the Coast Guard request clarification on issuing MMSI numbers.²³ An MMSI number is a nine-digit number which is used in digital selective calling (DSC)-equipped marine radios. An MMSI number is similar to a telephone number and used to identify ship stations, ship earth stations, coast stations, coast earth stations, and group

¹⁹ See, for example 14 C.F.R. §91.129, §91.130, §91.131, §91.135.

²⁰ Jeffrey Austen Comments at 1.

²¹ Robert Sassaman Comments at 1.

²² 1996 Telecommunications Act, Section 403(e)(1).

²³ Robert Sassaman Comments at 1; Coast Guard Comments at 6.

calls. Currently, these MMSI numbers are issued to a licensee, upon request, at the time the individual ship station is licensed. Over the past year approximately 5 percent of ship licensees requested MMSI numbers. The Commission is currently exploring options for issuing these numbers, including issuing blocks of MMSI numbers to other Federal Government agencies or private entities to administer.²⁴ We will issue a Public Notice in the future on alternative procedures for obtaining an MMSI number. In the interim, however, those individuals that desire an MMSI number must apply for a ship license. We expect the number of requests for MMSI numbers to continue to be small, however, until the Coast Guard puts its VHF DSC system in place.²⁵

14. We noted in the *Notice* that licensees who received their licenses after July 17, 1994, and paid a regulatory fee may be eligible to request a partial refund for the remaining years on their authorization.²⁶ We will allow refunds of regulatory fees paid in advance by exempt ship and aircraft licensees for any remaining full years of a license term. These refunds will be made to individual ship and aircraft licensees who request a refund. The precise procedures for requesting a refund from the Commission will be issued by Public Notice from the Managing Director and published in the Federal Register. For those applicants that have applied for but not received an authorization, we will return the regulatory fee and the processing fee. No action is needed by entities with pending applications to obtain this refund.

IV. CONCLUSION

15. In this *Report and Order*, we are adopting rule changes to Parts 80 and 87 of the Rules to remove the individual licensing requirement for exempt vessel and aircraft stations. This action is in the public interest because it eliminates administrative burdens for both the public and the Commission without having a negative impact on safety or spectrum management in the Maritime and Aviation Services.

²⁴ Since 1990 we have been issuing COMSAT blocks of MMSI numbers to assign to satellites stations. We note that similar procedure may work for issuing MMSI numbers to individual ship stations..

²⁵ According to the Coast Guard's home page, its VHF digital selective calling system should be in place by the year 2000.

²⁶ See *Notice of Proposed Rule Making*, WT Docket No. 96-82, 11 FCC Rcd at 6354, para.13.

V. FINAL REGULATORY FLEXIBILITY ANALYSIS

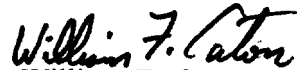
16. See Appendix B.

VI. ORDER CLAUSES

17. Accordingly, **IT IS ORDERED** that, pursuant to the authority of Sections 4(i), 303(r), 307(e), and 332(a)(2) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(r), 307(e) and 332(a)(2), Parts 80 and 87 of the Commission's Rules, 47 C.F.R. Parts 80 and 87 **ARE AMENDED** as set forth in the attached Appendix, effective [thirty days after publication in the Federal Register].

18. **IT IS FURTHER ORDERED** that this proceeding is **TERMINATED**.

FEDERAL COMMUNICATIONS COMMISSION


William F. Caton
Acting Secretary

**APPENDIX A
COMMENTERS**

1. Apicella, J.
2. Austen, Jeffery R.
3. Boat Owners Association of the United States
4. Boscole, Christopher
5. Canuso, Francis A.
6. Cooke, Willis R.
7. Cribbs, Larry
8. Curley, James
9. Desjardins, Roland P.
10. Doney, Glenn
11. Hendricks, Jay
12. Herpolsheimer, Herb F.
13. Hodgson, Gordon
14. Kotler, Jeffrey
15. Levin, John
16. Lewis, Robert E.
17. National Air Transportation Association
18. National Business Aircraft Association
19. National Boating Federation
20. Norgan, Gary D.
21. Patton, John F.
22. Poulton, Ken
23. Sassaman, Robert H.
24. Saylor, Barry E.
25. Slade, James
26. Stoddard, Philip
27. Stoll, Steve
28. Thoroughmaan, Edwin L.
29. United States Coast Guard
30. Van Hook, Chris
31. Wheeler, Curtis G.
32. White, Robert L.
33. Wilson, Paul F.

APPENDIX B

FINAL REGULATORY FLEXIBILITY ANALYSIS

As required by Section 603 of the Regulatory Flexibility Act, 5 U.S.C. § 603 (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Notice of Proposed Rule Making* WT Docket No. 96-52 in this proceeding (*Notice*). The Commission sought written public comments on the proposals in the *Notice*, including on the IRFA. The Commission's Final Regulatory Flexibility Analysis (FRFA) in this *Report and Order* conforms to the RFA, as amended by the Contract With America Advancement Act of 1996 (CWAAA), Pub. L. No. 104-121, 110 Stat. 847 (1996).²⁷

I. Need For and Purpose of this Action:

Our objective is to eliminate the individual radio licensing requirements for ship stations and aircraft stations that operate domestically and are not required by statute or treaty to carry a radio. This action is taken pursuant to Section 307(e) of the Communications Act of 1934²⁸ ("Communications Act"), as amended by Section 403(i) of the Telecommunications Act of 1996, which gives the Commission discretion to remove the individual radio licensing requirements for these stations upon a determination that the public interest, convenience and necessity would be served thereby. This action will eliminate administrative burdens for both the public and the Commission without having a negative impact on safety or spectrum management in the Maritime and Aviation Services.

II. Summary of Significant Issues Raised by the Public Comments in Response to the Initial Regulatory Flexibility Analysis (IRFA):

No comments were filed in direct response to the IRFA. In general comments on the *Notice*, however, some small business commenters raised issues that might affect small entities. In particular, some small business commenters argued that the scope of the rule should be broadened to include small businesses in the aviation radio services (*e.g.*, unscheduled air taxis, small domestic air carrier, *etc.*) These small business commenters noted that the proposal in the *Notice* was limited in scope and could lead to confusion. The Commission carefully considered each of these comments in reaching the decisions set forth in this *Notice*.

III. Description and Estimate of the Number of Small Entities To Which Rule Will Apply:

²⁷ Subtitle II of the CWAAA is "The Small Business Regulatory Enforcement Fairness Act of 1996" (SBREFA), codified at 5 U.S.C. § 601 *et seq.*

²⁸ 47 U.S.C. § 307(e).

The rules adopted in this *Report and Order* will apply to small businesses in the aviation and marine radio services that use a marine VHF radio, any type of emergency position indicating radio beacon (EPIRB), and/or radar, a VHF aircraft radio, and/or any type of emergency locator transmitter (ELT). The Commission has not developed a definition of small entities specifically applicable to these small businesses. Therefore, the applicable definition of small entity is the definition under the Small Business Administration rules applicable to water transportation and transportation by air. This definition provides that a small entity is any entity employing less than 500 persons for water transportation, and 1,500 for transportation by air. See 13 C.F.R. § 121.201, Standard Industrial Classification (SIC) Major Group Code 44 -- Water Transportation (4491, 4492, 4493, 4499) and 45 -- Transportation by Air (4522, 4581). Since the Regulatory Flexibility Act amendments were not in effect until the record in this proceeding was closed, the Commission was unable to request information regarding the number of small entities and is unable at this time to make a meaningful estimate of the number of potential small businesses.

Most applicants for individual recreational licenses are individuals. However, to the extent any are small entities, the rule would eliminate the burden of filing for individual recreational vessel or aircraft licenses. Approximately 581,000 ship station licensees and 131,000 aircraft station licensees operate domestically and are not subject to the radio carriage requirements of any statute or treaty. Therefore, for purposes of our evaluations and conclusions in this Final Regulatory Flexibility Analysis, we estimate that there may be at least 712,000 potential licensees which are small businesses, as that term is defined by the Small Business Administration.

IV. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements:

Reporting, recordkeeping and other compliance requirements are reduced by these rules. Certain ship and aircraft licensees would no longer be required to file FCC Forms 506 & 404. Respondents for ship spend approximately .36 hours to complete FCC Form 506 and respondents for aircraft licenses spend approximately .33 hours to complete FCC Form 404.

V. Steps Taken By Agency to Minimize Significant Economic Impact on Small Entities Consistent with Stated Objectives:

This action is taken pursuant to Section 307(e) of the Communications Act of 1934, as amended by Section 403(i) of the Telecommunications Act of 1996, which gives the Commission discretion to remove the individual radio licensing requirements for these stations upon a determination that the public interest, convenience and necessity would be served thereby. The Commission in this proceeding has considered comments on ways to remove the individual radio licensing requirement for vessels and aircraft that operate domestically and are not subject to the radio carriage requirements of any statute or treaty. Based on Fiscal Year 1996 fees of \$75 per station license (which includes a \$45 application fee and a \$30 regulatory fee), the Commission estimated that this action would reduce

economic burdens on recreational ship and aircraft owners by \$5,347,630 annually. In considering the comments, the Commission has adopted alternatives which minimize burdens placed on small entities. Based on comments received the Commission decided to include general aviation and commercial aircraft as exempt from the licensing requirement. All aircraft stations operated on domestic flights when such aircraft are not required by statute or treaty to carry a radio station are authorized by rule. *See* paragraph 10 *supra*. This action eliminates unnecessary economic and administrative burdens for small businesses.

VI. Commission's Outreach Efforts to Learn of and Respond to the Views of Small Entities pursuant to 5 U.S.C. § 609:

The Commission in coordination with the Coast Guard and FAA, published a Fact Sheet concerning ship and aircraft radio station licensing and made it available on the Commission's World Wide Web Home Page as well as in paper form to the maritime and aviation communities, including manufacturers and retailers of marine and aircraft VHF radios.

VIII. Report to Congress:

The Commission shall send a copy of this Final Regulatory Flexibility Analysis, along with this *Report and Order*, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. § 801(a)(1)(A). A copy of this FRFA will also be published in the Federal Register.

FINAL RULES

Chapter I of Title 47 of the Code of Federal Regulations, Parts 80 and 87, are amended as follows:

I. Part 80 - Stations in the Maritime Services

1. The authority citation for Part 80 is revised to read as follows:

AUTHORITY: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, 307(e) unless otherwise noted. Interpret or apply 48 Stat. 1064-1068, 1081-1105, as amended; 47 U.S.C. 151-155, 301-609; 3 UST 3450, 3 UST 4726, 12 UST 2377.

2. Section 80.13 is revised to read as follows:

§ 80.13 Station license required.

(a) Except for those excluded in paragraph (c), stations in the maritime service must be licensed by the FCC either individually or by fleet.

(b) One ship station license will be granted for operation of all maritime services transmitting equipment on board a vessel.

(c) A ship station is licensed by rule and does not need an individual license issued by the FCC if the ship station is not subject to the radio equipment carriage requirements any statute, treaty or agreement to which the United States is signatory, the ship station does not travel to foreign ports, and the ship station does not make international communications. A ship station licensed by rule is authorized to transmit radio signals using a marine radio operating in the 156-162 MHz band, any type of EPIRB, and any type of radar installation. All other transmissions must be authorized under a ship station license. Even though an individual license is not required, a ship station licensed by rule must be operated in accordance with all applicable operating requirements, procedures, and technical specifications found in Part 80.

II. Part 87 - Aviation Services

3. The authority citation for Part 87 is revised to read as follows:

AUTHORITY: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, 307(e) unless otherwise noted. Interpret or apply 48 Stat. 1064-1068, 1081-1105, as amended; 47 U.S.C. 151-156, 301-609.

4. A new Section 87.18 is added to read as follows:

§ 87.18 Station license required.

(a) Except for those excluded in paragraph (b), stations in the aviation service must be licensed by the FCC either individually or by fleet.

(b) An aircraft station is licensed by rule and does not need an individual license issued by the FCC if the aircraft station is not required by statute, treaty, or agreement to which the United States is signatory to carry a radio, and the aircraft station does not make international flights or communications. Even though an individual license is not required, an aircraft station licensed by rule must be operated in accordance with all applicable operating requirements, procedures, and technical specifications found in Part 87.